

ORDINANCE NO. O-04-2011

ORDINANCE AMENDING

**CHAPTER II, "GOVERNMENT AND ADMINISTRATION",
ARTICLE 3, "PUBLIC ETHICS", BY REPEALING AND REENACTING
SECTIONS 2-301, "APPLICABILITY"; 2-302, "PURPOSE AND POLICY", 2-
303, "DEFINITIONS", 2-304, "ETHICS COMMISSION", 2-305, "CONFLICTS
OF INTEREST", AND 2-309 "LOBBYING DISCLOSURE"; DELETING
SECTIONS 2-307, "SOLICITATION OR ACCEPTANCE OF GIFTS", 2-308,
"FINANCIAL DISCLOSURE" AND 2-310, "VIOLATIONS AND
PENALTIES", AND ENACTING NEW SECTIONS 2-307, "FINANCIAL
DISCLOSURE – LOCAL ELECTED OFFICIALS AND CANDIDATES TO BE
LOCAL ELECTED OFFICIALS", 2-308, "FINANCIAL DISCLOSURE –
EMPLOYEES AND APPOINTED OFFICIALS", 2-310, "SECTION
EXEMPTIONS AND MODIFICATIONS", AND
2-311, "ENFORCEMENT" TO REVISE THE ETHICS CODE.**

WHEREAS, the State of Maryland Public Ethics law, Title 15, Subtitle 8 of the State Government Article, Annotated Code of Maryland requires that the Town of Kensington adopt an ethics ordinance; and

WHEREAS, recent changes to the State Public Ethics law have required that the Town of Kensington also make changes and revise Chapter II, "Government and Administration", Article 3 "Public Ethics".

Section 1. NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Kensington, in public meeting assembled, that Chapter 2, "Government and Administration", Article 3, "Public Ethics", Section 2-301 of the Code of the Town of Kensington be repealed, reenacted and amended to read as follows:

Section 2-301. Applicability

The provisions of this Chapter shall apply to [~~the Mayor, Town Council, Town Attorney, Clerk-Treasurer, Building Inspector, Code Enforcement Officer, Director of Operations, members of the Board of Supervisors of Elections, members of the Ethics Commission, and all other employees or people hired or appointed directly by the Mayor or Council and any other employees which the Council may designate~~] **ALL ELECTED OFFICIALS, OFFICIALS, EMPLOYEES, AND APPOINTEES TO BOARDS AND COMMISSIONS OF THE TOWN OF KENSINGTON.**

Section 2. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that Chapter 2, "Government and Administration", Article

CAPS

[Brackets]

Asterisks * * *

: Indicate matter added to existing law.

: Indicate matter deleted from law.

: Indicate matter remaining unchanged in existing law but not set forth in Ordinance

3, "Public Ethics", Section 2-302 of the Code of the Town of Kensington be, and is hereby, repealed and re-enacted with amendments to read as follows:

Section 2-302. Purpose and Policy

The Town of Kensington, recognizing that its system of representative government is dependent in part on people maintaining the highest trust in its public officials and employees, finds and declares that the public has a right to be assured that the impartiality and independent judgment of public officials and employees will be maintained. For the purpose of guarding against improper influence, the Town Council enacts this Article to require Town ~~[officials and employees]~~ ELECTED OFFICIALS, OFFICIALS, EMPLOYEES, AND INDIVIDUALS APPOINTED TO BOARDS AND COMMISSIONS to disclose their financial affairs and to set minimum standards for the conduct of Town business. This Article is intended to comply with the requirements of State law outlined in Maryland Public Ethics Law, ~~[Annotated Code of Maryland, Article 40A]~~ STATE GOVERNMENT ARTICLE, TITLE 15, SUBTITLE 8, ANNOTATED CODE OF MARYLAND.

Section 3. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that Chapter 2, "Government and Administration", Article 3, "Public Ethics", Section 2-303 of the Code of the Town of Kensington be, and is hereby, repealed and re-enacted with amendments to read as follows:

Section 2-303. Definitions

For the purpose of this Article, the following words have the meanings indicated:

(a) "Business or Business Entity" shall include any corporation, partnership, sole proprietor (including private consultant), joint venture, UNINCORPORATED ASSOCIATION OR FIRM, INSTITUTION, trust, foundation or other organization whether or not operated for profit, or other business entity regardless of form.

(b) ~~["Direct Financial Interest" shall mean:~~

~~(1) An ownership interest of three percent (3%) or more in any business or business entity, including ownership of securities of any kind representing or convertible into ownership, of more than three percent (3%) of a business entity. For the purpose of establishing ownership pursuant to this Subsection, the interest(s) of immediate family members shall be included;~~
~~or~~

~~(2) Ownership of any interest as a result of which the owner has received or will receive more than one thousand dollars (\$1,000) per year.]~~

~~[(c)]~~ "Doing Business with the Town" means:

(1) Having or negotiating a contract with the Town that involves the Commitment, EITHER IN A SINGLE OR COMBINATION OF TRANSACTIONS, of \$500 or more OF TOWN CONTROLLED FUNDS ~~[on a cumulative basis during a calendar year,]~~ ;
or

(2) Being regulated by or under the authority of the Town, or

(3) Being a lobbyist as defined by Subsection (f) of this Section or as

registered with the Town Manager or designee as provided in Section 2-309 of this Article.

C. "FINANCIAL INTEREST" MEANS:

(1) OWNERSHIP OF ANY INTEREST AS THE RESULT OF WHICH THE OWNER HAS RECEIVED, WITHIN THE PAST 3 YEARS, OR IS PRESENTLY RECEIVING, OR IN THE FUTURE IS ENTITLED TO RECEIVE, MORE THAN \$1,000 PER YEAR; OR

(2) OWNERSHIP, OR THE OWNERSHIP OF SECURITIES OF ANY KIND REPRESENTING OR CONVERTIBLE INTO OWNERSHIP, OF MORE THAN 3 PERCENT OF A BUSINESS ENTITY BY A TOWN OFFICIAL OR EMPLOYEE, OR THE SPOUSE OF AN OFFICIAL OR EMPLOYEE.

(d) "Gift" shall mean the transfer of anything of economic value regardless of the form without adequate and lawful consideration. ~~[Gift does not include solicitation, acceptance, or receipt of political campaign contributions regulated by State law.]~~ "GIFT" DOES NOT INCLUDE A POLITICAL CAMPAIGN CONTRIBUTION REGULATED UNDER THE ELECTIONS ARTICLE, ANNOTATED CODE OF MARYLAND, OR ANY OTHER PROVISION OF STATE OR LOCAL LAW REGULATING THE CONDUCT OF ELECTIONS OR THE RECEIPT OF POLITICAL CAMPAIGN CONTRIBUTIONS.

(e) "Immediate Family" shall mean spouse and dependent children.

F. "INTEREST" MEANS

(1) A LEGAL OR EQUITABLE ECONOMIC INTEREST, WHETHER OR NOT SUBJECT TO AN ENCUMBRANCE OR A CONDITION, THAT IS OWNED OR HELD, IN WHOLE OR IN PART, JOINTLY OR SEVERALLY, DIRECTLY OR INDIRECTLY.

(2) FOR PURPOSES OF § 6 OF THIS CHAPTER, "INTEREST" INCLUDES ANY INTEREST HELD AT ANY TIME DURING THE REPORTING PERIOD.

(3) "INTEREST" DOES NOT INCLUDE:

(I) AN INTEREST HELD IN THE CAPACITY OF A PERSONAL AGENT, CUSTODIAN, FIDUCIARY, OR PERSONAL REPRESENTATIVE, TRUSTEE, UNLESS THE HOLDER HAS AN EQUITABLE INTEREST IN THE SUBJECT MATTER;

(II) AN INTEREST IN A TIME OR DEMAND DEPOSIT IN A FINANCIAL INSTITUTION;

(III) AN INTEREST IN AN INSURANCE POLICY, ENDOWMENT POLICY OR ANNUITY CONTRACT UNDER WHICH AN INSURER PROMISES TO PAY A FIXED AMOUNT OF MONEY EITHER IN A LUMP SUM OR PERIODICALLY FOR LIFE OR A SPECIFIED PERIOD;

(IV) A COMMON TRUST FUND OR A TRUST WHICH FORMS PART OF A PENSION OR PROFIT SHARING PLAN WHICH HAS MORE THAN 25 PARTICIPANTS AND WHICH HAS BEEN DETERMINED BY THE INTERNAL REVENUE SERVICE TO BE A QUALIFIED TRUST UNDER THE INTERNAL REVENUE CODE; OR

(V) A COLLEGE SAVINGS PLAN UNDER THE INTERNAL REVENUE CODE.

~~(F)~~ G. "Lobbyist shall mean any person, who ~~[in the presence of any official of the Town, has communicated with such official for the purpose of influencing any legislative or executive action]~~ PERSONALLY APPEARS BEFORE A TOWN OFFICIAL OR EMPLOYEE WITH THE INTENT TO INFLUENCE THAT PERSON IN PERFORMANCE OF THE OFFICIAL

DUTIES OF THE OFFICIAL OR EMPLOYEE and who for that purpose either REASONABLY EXPECTS TO incur expenses of one hundred dollars (\$100) or more or receives five hundred dollars (\$500) or more as compensation for such activity or any person who REASONABLY EXPECTS TO expend[s] within any calendar year a cumulative total of one hundred dollars (\$100) or more on one (1) or more officials of the Town for meals, beverages, special events or gifts in connection with or with the purpose of influencing such officials in the performance of the Town's business or the enactment of legislation.

~~[(4)]~~ H. "Officials or Official" ~~[includes all elected Town officers and all other Town employees enumerated in Section 2-301 of this Article]~~ SHALL MEAN AN ELECTED OFFICIAL, AN EMPLOYEE OF THE TOWN, OR A PERSON APPOINTED TO OR EMPLOYED BY THE TOWN OR ANY TOWN AGENCY, BOARD, COMMISSION, OR SIMILAR ENTITY:

- (1) WHETHER OR NOT PAID IN WHOLE OR IN PART WITH TOWN FUNDS; AND
- (2) WHETHER OR NOT COMPENSATED.

Section 4. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that Chapter 2, "Government and Administration", Article 3, "Public Ethics", Section 2-304 of the Code of the Town of Kensington be, and is hereby, repealed and re-enacted with amendments to read as follows:

Section 2-304. Ethics Commission

(a) There is hereby established a Town Ethics Commission which shall consist of three (3) members who are not employed by the Town and who are appointed by the Mayor with the approval of a majority of the Council on or before the first Monday in April. The members of the Commission shall be appointed to staggered two-year terms. Initially, one (1) member shall be appointed to a one-year term, one (1) member to a two-year term and one (1) member to a three-year term. Vacancies on the Commission shall be filled by the Mayor with the approval of the Council for the remainder of the unexpired term. MEMBERS OF THE ETHICS COMMISSION MAY CONTINUE TO SERVE IN THE POSITION AFTER THE EXPIRATION OF THE TERM UNTIL THEY ARE REMOVED OR A SUCCESSOR IS APPOINTED AND QUALIFIES.

(b) The qualifications of office for members of the Town Ethics Commission shall be the same as those enumerated in Section 702 of the Town Charter for the Board of Supervisors of Elections. The members of the Commission shall not hold any position with any other board or commission established by the Town.

(c) The Commission shall be advised and assisted by the Town Attorney and ~~[Clerk-Treasurer]~~ TOWN MANAGER OR DESIGNEE and have the following responsibilities:

- (1) To devise, receive and maintain all forms generated by this Article;
- (2) To DEVELOP PROCEDURES AND POLICIES FOR ADVISORY OPINION REQUESTS AND provide PUBLISHED advisory opinions to persons subject to this Article as to the applicability of the provisions of this Article to them;
- (3) TO DEVELOP PROCEDURES AND POLICIES FOR THE PROCESSING OF COMPLAINTS AND to process and make APPROPRIATE determinations as to complaints filed by any person alleging violation of this Article; AND

(4) CONDUCT A PUBLIC INFORMATION PROGRAM REGARDING THE PURPOSES AND APPLICATION OF THIS ARTICLE.

(d) In the event that a formal complaint is lodged against any member of the Commission, that member shall be disqualified from participating in any Commission proceedings regarding determination of the complaint against said member. A replacement member shall be appointed by the Mayor with the approval of a majority of the Council pending resolution of the complaint.

(e) The Commission may request an independent agency or individual, not connected with the Town, to investigate any complaint lodged against a Commission member, the Town Attorney, or ~~[Clerk-Treasurer]~~ TOWN MANAGER OR DESIGNEE.

F. THE COMMISSION SHALL CERTIFY TO THE STATE ETHICS COMMISSION ON OR BEFORE OCTOBER 1 OF EACH YEAR THAT THE TOWN IS IN COMPLIANCE WITH THE REQUIREMENTS OF STATE GOVERNMENT ARTICLE, TITLE 15, SUBTITLE 8, ANNOTATED CODE OF MARYLAND, FOR ELECTED LOCAL OFFICIALS.

(G) THE COMMISSION SHALL DETERMINE IF CHANGES TO THIS CHAPTER ARE REQUIRED TO BE IN COMPLIANCE WITH THE REQUIREMENTS OF STATE GOVERNMENT ARTICLE, TITLE 15, SUBTITLE 8, ANNOTATED CODE OF MARYLAND, AND SHALL FORWARD ANY RECOMMENDED CHANGES AND AMENDMENTS TO THE TOWN COUNCIL FOR ENACTMENT.

(H) THE COMMISSION MAY ADOPT OTHER POLICIES AND PROCEDURES TO ASSIST IN THE IMPLEMENTATION OF THE COMMISSION'S PROGRAMS ESTABLISHED IN THIS CHAPTER.

(I) (1) ANY PERSON SUBJECT TO THIS CHAPTER MAY REQUEST AN ADVISORY OPINION FROM THE COMMISSION CONCERNING THE APPLICATION OF THIS CHAPTER.

(2) THE COMMISSION SHALL RESPOND PROMPTLY TO A REQUEST FOR AN ADVISORY OPINION AND SHALL PROVIDE INTERPRETATIONS OF THIS CHAPTER BASED ON THE FACTS PROVIDED OR REASONABLY AVAILABLE TO THE COMMISSION.

(3) IN ACCORDANCE WITH ALL APPLICABLE STATE AND TOWN LAWS REGARDING PUBLIC RECORDS, THE COMMISSION SHALL PUBLISH OR OTHERWISE MAKE AVAILABLE TO THE PUBLIC COPIES OF THE ADVISORY OPINIONS, WITH THE IDENTITIES OF THE SUBJECTS DELETED. THE NAME OF THE PERSON REQUESTING THE ADVISORY OPINION AND THE NAMES OF ALL PERSONS OR BUSINESS ENTITIES MENTIONED IN THE OPINION SHALL BE DEEMED CONFIDENTIAL INFORMATION AND SHALL NOT BE DISCLOSED BY THE MEMBERS OF THE COMMISSION UNLESS EACH PERSON OR BUSINESS ENTITY WAIVES SUCH CONFIDENTIALITY

(4) THE COMMISSION MAY ADOPT ADDITIONAL POLICIES AND PROCEDURES RELATED TO THE ADVISORY OPINION REQUEST PROCESS.

(J)(1) ANY PERSON MAY FILE A COMPLAINT WITH THE COMMISSION ALLEGING A VIOLATION OF ANY OF THE PROVISIONS OF THIS CHAPTER.

(2) A COMPLAINT SHALL BE IN WRITING AND UNDER OATH; AND

(3) THE COMMISSION MAY REFER A COMPLAINT TO THE TOWN ATTORNEY, OR OTHER LEGAL COUNSEL IF APPROPRIATE, FOR INVESTIGATION AND REVIEW.

(4) THE COMMISSION MAY DISMISS A COMPLAINT IF, AFTER RECEIVING AN INVESTIGATIVE REPORT, THE COMMISSION DETERMINES THAT THERE ARE INSUFFICIENT FACTS UPON WHICH TO BASE A DETERMINATION OF A VIOLATION.

(5) IF THERE IS A REASONABLE BASIS FOR BELIEVING A VIOLATION HAS OCCURRED, THE SUBJECT OF THE COMPLAINT SHALL BE GIVEN AN OPPORTUNITY FOR A HEARING CONDUCTED IN ACCORDANCE WITH THE APPLICABLE TOWN RULES OF PROCEDURE.

(6) A FINAL DETERMINATION OF A VIOLATION RESULTING FROM THE HEARING SHALL INCLUDE FINDINGS OF FACT AND CONCLUSIONS OF LAW.

(7) UPON FINDING OF A VIOLATION, THE COMMISSION MAY TAKE ANY ENFORCEMENT ACTION PROVIDED FOR IN §16-11 OF THIS CHAPTER.

(8)(I) AFTER A COMPLAINT IS FILED AND UNTIL A FINAL FINDING OF A VIOLATION BY THE COMMISSION, ALL ACTIONS REGARDING A COMPLAINT ARE CONFIDENTIAL.

(II) A FINDING OF A VIOLATION IS PUBLIC INFORMATION.

Section 5. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that Chapter 2, "Government and Administration", Article 3, "Public Ethics", Section 2-305 of the Code of the Town of Kensington be, and is hereby, repealed and re-enacted with amendments to read as follows:

Section 2-305. Conflicts of Interest

~~[Officials and employees of the Town of Kensington who are subject to this Article shall not:~~

~~(a) Participate on behalf of the Town in any matter which would have a direct financial impact on them, their immediate family or a business entity with which they are employed or in which they have a direct financial interest, except in the exercise of routine administrative duties or as provided in Section 2-306 below.~~

~~(b) Represent any party, for a contingent fee, before any Town body.~~

~~(c) Intentionally use the prestige of their office for their own private gain or that of their immediate family or any other person or business entity; provided, however, that the performance of usual and customary constituent services, without additional compensation, and the proper performance of regular administrative or ministerial duties does not constitute the use of the prestige of office for an official's or employee's private gain.~~

~~(d) Use confidential information acquired in their official Town capacity for personal gain or that of their immediate family or any other person or business entity.~~

~~(e) Hold any outside employment relationship that would impair their impartiality or independence of judgment.~~

~~(f) Within one (1) year following termination of Town service, act as a compensated representative of another party in connection with any specific matter in which he or she participated substantially as a Town official.]~~

(A) IN THIS SECTION, "QUALIFIED RELATIVE" MEANS A SPOUSE, PARENT, CHILD, OR SIBLING.

(B) ALL TOWN ELECTED OFFICIALS, OFFICIALS APPOINTED TO TOWN BOARDS AND COMMISSIONS SUBJECT TO THIS CHAPTER AND EMPLOYEES ARE SUBJECT TO THIS SECTION.

(C) PARTICIPATION PROHIBITIONS. EXCEPT AS PERMITTED BY COMMISSION REGULATION OR OPINION, AN OFFICIAL OR EMPLOYEE MAY NOT PARTICIPATE IN:

(1) EXCEPT IN THE EXERCISE OF AN ADMINISTRATIVE OR MINISTERIAL DUTY THAT DOES NOT AFFECT THE DISPOSITION OR DECISION OF THE MATTER, ANY MATTER IN WHICH, TO THE KNOWLEDGE OF THE OFFICIAL OR EMPLOYEE, THE OFFICIAL OR EMPLOYEE, OR A QUALIFIED RELATIVE OF THE OFFICIAL OR EMPLOYEE HAS AN INTEREST.

(2) EXCEPT IN THE EXERCISE OF AN ADMINISTRATIVE OR MINISTERIAL DUTY THAT DOES NOT AFFECT THE DISPOSITION OR DECISION WITH RESPECT TO THE MATTER, ANY MATTER, IN WHICH ANY OF THE FOLLOWING IS A PARTY:

(I) A BUSINESS ENTITY IN WHICH THE OFFICIAL OR EMPLOYEE HAS A DIRECT FINANCIAL INTEREST OF WHICH THE OFFICIAL OR EMPLOYEE MAY REASONABLY BE EXPECTED TO KNOW;

(II) A BUSINESS ENTITY FOR WHICH THE OFFICIAL, EMPLOYEE, OR A QUALIFIED RELATIVE OF THE OFFICIAL OR EMPLOYEE IS AN OFFICER, DIRECTOR, TRUSTEE, PARTNER, OR EMPLOYEE;

(III) A BUSINESS ENTITY WITH WHICH THE OFFICIAL OR EMPLOYEE OR, TO THE KNOWLEDGE OF THE OFFICIAL OR EMPLOYEE, A QUALIFIED RELATIVE IS NEGOTIATING OR HAS ANY ARRANGEMENT CONCERNING PROSPECTIVE EMPLOYMENT.

(IV) IF THE CONTRACT REASONABLY COULD BE EXPECTED TO RESULT IN A CONFLICT BETWEEN THE PRIVATE INTERESTS OF THE OFFICIAL OR EMPLOYEE AND THE OFFICIAL DUTIES OF THE OFFICIAL OR EMPLOYEE, A BUSINESS ENTITY THAT IS A PARTY TO AN EXISTING CONTRACT WITH THE OFFICIAL OR EMPLOYEE, OR WHICH, TO THE KNOWLEDGE OF THE OFFICIAL OR EMPLOYEE, IS A PARTY TO A CONTRACT WITH A QUALIFIED RELATIVE;

(V) AN ENTITY, DOING BUSINESS WITH THE TOWN, IN WHICH A DIRECT FINANCIAL INTEREST IS OWNED BY ANOTHER ENTITY IN WHICH THE OFFICIAL OR EMPLOYEE HAS A DIRECT FINANCIAL INTEREST, IF THE OFFICIAL OR EMPLOYEE MAY BE REASONABLY EXPECTED TO KNOW OF BOTH DIRECT FINANCIAL INTERESTS; OR

(VI) A BUSINESS ENTITY THAT:

(A) THE OFFICIAL OR EMPLOYEE KNOWS IS A CREDITOR OR OBLIGEE OF THE OFFICIAL OR EMPLOYEE OR A QUALIFIED RELATIVE OF THE OFFICIAL OR EMPLOYEE WITH RESPECT TO A THING OF ECONOMIC VALUE; AND

(B) AS A CREDITOR OR OBLIGEE, IS IN A POSITION TO DIRECTLY AND SUBSTANTIALLY AFFECT THE INTEREST OF THE OFFICIAL OR EMPLOYEE OR A QUALIFIED RELATIVE OF THE OFFICIAL OR EMPLOYEE.

(3) A PERSON WHO IS DISQUALIFIED FROM PARTICIPATING UNDER PARAGRAPHS 1 OR 2 OF THIS SUBSECTION SHALL DISCLOSE THE NATURE AND CIRCUMSTANCES OF THE CONFLICT AND MAY PARTICIPATE OR ACT IF:

(I) THE DISQUALIFICATION LEAVES A BODY WITH LESS THAN A QUORUM CAPABLE OF ACTING;

(II) THE DISQUALIFIED OFFICIAL OR EMPLOYEE IS REQUIRED BY LAW TO ACT; OR

(III) THE DISQUALIFIED OFFICIAL OR EMPLOYEE IS THE ONLY PERSON AUTHORIZED TO ACT.

(4) THE PROHIBITIONS OF PARAGRAPH 1 AND 2 OF THIS SUBSECTION DO NOT APPLY IF PARTICIPATION IS ALLOWED BY REGULATION OR OPINION OF THE COMMISSION.

(D) EMPLOYMENT AND FINANCIAL INTEREST RESTRICTIONS.

(1) EXCEPT AS PERMITTED BY REGULATION OF THE COMMISSION WHEN THE INTEREST IS DISCLOSED OR WHEN THE EMPLOYMENT DOES NOT CREATE A CONFLICT OF INTEREST OR APPEARANCE OF CONFLICT, AN OFFICIAL OR EMPLOYEE MAY NOT:

(I) BE EMPLOYED BY OR HAVE A FINANCIAL INTEREST IN ANY ENTITY:

(A) SUBJECT TO THE AUTHORITY OF THE OFFICIAL OR EMPLOYEE OR THE TOWN AGENCY, BOARD, COMMISSION WITH WHICH THE OFFICIAL OR EMPLOYEE IS AFFILIATED; OR

(B) THAT IS NEGOTIATING OR HAS ENTERED A CONTRACT WITH THE AGENCY, BOARD, OR COMMISSION WITH WHICH THE OFFICIAL OR EMPLOYEE IS AFFILIATED; OR

(II) HOLD ANY OTHER EMPLOYMENT RELATIONSHIP THAT WOULD IMPAIR THE IMPARTIALITY OR INDEPENDENCE OF JUDGMENT OF THE OFFICIAL OR EMPLOYEE.

(2) THIS PROHIBITION DOES NOT APPLY TO:

(I) AN OFFICIAL OR EMPLOYEE WHO IS APPOINTED TO A REGULATORY OR LICENSING AUTHORITY PURSUANT TO A STATUTORY REQUIREMENT THAT PERSONS SUBJECT TO THE JURISDICTION OF THE AUTHORITY BE REPRESENTED IN APPOINTMENTS TO THE AUTHORITY;

(II) SUBJECT TO OTHER PROVISIONS OF LAW, A MEMBER OF A BOARD OR COMMISSION IN REGARD TO A FINANCIAL INTEREST OR EMPLOYMENT HELD AT THE TIME OF APPOINTMENT, PROVIDED THE FINANCIAL INTEREST OR EMPLOYMENT IS PUBLICLY DISCLOSED TO THE APPOINTING AUTHORITY AND THE COMMISSION;

(III) AN OFFICIAL OR EMPLOYEE WHOSE DUTIES ARE MINISTERIAL, IF THE PRIVATE EMPLOYMENT OR FINANCIAL INTEREST DOES NOT CREATE A CONFLICT OF INTEREST OR THE APPEARANCE OF A CONFLICT OF INTEREST, AS PERMITTED AND IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSION; OR

(IV) EMPLOYMENT OR FINANCIAL INTERESTS ALLOWED BY REGULATION OF THE COMMISSION IF THE EMPLOYMENT DOES NOT CREATE A CONFLICT OF INTEREST OR THE APPEARANCE OF A CONFLICT OF INTEREST OR THE FINANCIAL INTEREST IS DISCLOSED.

(E) POST-EMPLOYMENT LIMITATIONS AND RESTRICTIONS.

(1) A FORMER OFFICIAL OR EMPLOYEE MAY NOT ASSIST OR REPRESENT ANY PARTY OTHER THAN THE TOWN FOR COMPENSATION IN A CASE, CONTRACT, OR OTHER SPECIFIC MATTER INVOLVING THE TOWN IF THAT MATTER IS ONE IN WHICH THE FORMER OFFICIAL OR EMPLOYEE SIGNIFICANTLY PARTICIPATED AS AN OFFICIAL OR EMPLOYEE.

(2) UNTIL THE CONCLUSION OF THE NEXT REGULAR SESSION THAT BEGINS AFTER THE ELECTED OFFICIAL LEAVES OFFICE, A FORMER MEMBER OF THE TOWN COUNCIL MAY NOT ASSIST OR REPRESENT ANOTHER PARTY FOR COMPENSATION IN A MATTER THAT IS THE SUBJECT OF LEGISLATIVE ACTION.

(F) CONTINGENT COMPENSATION. EXCEPT IN A JUDICIAL OR QUASI-JUDICIAL PROCEEDING, AN OFFICIAL OR EMPLOYEE MAY NOT ASSIST OR REPRESENT A PARTY FOR CONTINGENT COMPENSATION IN ANY MATTER BEFORE OR INVOLVING THE TOWN.

(G) USE OF PRESTIGE OF OFFICE.

(1) AN OFFICIAL OR EMPLOYEE MAY NOT INTENTIONALLY USE THE PRESTIGE OF OFFICE OR PUBLIC POSITION FOR THE PRIVATE GAIN OF THAT OFFICIAL OR EMPLOYEE OR THE PRIVATE GAIN OF ANOTHER.

(2) THIS SUBSECTION DOES NOT PROHIBIT THE PERFORMANCE OF USUAL AND CUSTOMARY CONSTITUENT SERVICES BY AN ELECTED LOCAL OFFICIAL WITHOUT ADDITIONAL COMPENSATION.

(H) SOLICITATION AND ACCEPTANCE OF GIFTS.

(1) AN OFFICIAL OR EMPLOYEE MAY NOT SOLICIT ANY GIFT.

(2) AN OFFICIAL OR EMPLOYEE MAY NOT DIRECTLY SOLICIT OR FACILITATE THE SOLICITATION OF A GIFT, ON BEHALF OF ANOTHER PERSON, FROM AN INDIVIDUAL REGULATED LOBBYIST.

(3) AN OFFICIAL OR EMPLOYEE MAY NOT KNOWINGLY ACCEPT A GIFT, DIRECTLY OR INDIRECTLY, FROM A PERSON THAT THE OFFICIAL OR EMPLOYEE KNOWS OR HAS THE REASON TO KNOW:

(I) IS DOING BUSINESS WITH OR SEEKING TO DO BUSINESS WITH THE TOWN OFFICE, AGENCY, BOARD OR COMMISSION WITH WHICH THE OFFICIAL OR EMPLOYEE IS AFFILIATED;

(II) HAS FINANCIAL INTERESTS THAT MAY BE SUBSTANTIALLY AND MATERIALLY AFFECTED, IN A MANNER DISTINGUISHABLE FROM THE PUBLIC GENERALLY, BY THE PERFORMANCE OR NONPERFORMANCE OF THE OFFICIAL DUTIES OF THE OFFICIAL OR EMPLOYEE;

(III) IS ENGAGED IN AN ACTIVITY REGULATED OR CONTROLLED BY THE OFFICIAL'S OR EMPLOYEE'S GOVERNMENTAL UNIT; OR

(IV) IS A LOBBYIST WITH RESPECT TO MATTERS WITHIN THE JURISDICTION OF THE OFFICIAL OR EMPLOYEE.

(4) THIS PARAGRAPH DOES NOT APPLY TO A GIFT:

(I) THAT WOULD TEND TO IMPAIR THE IMPARTIALITY AND THE INDEPENDENCE OF JUDGMENT OF THE OFFICIAL OR EMPLOYEE RECEIVING THE GIFT;

(II) OF SIGNIFICANT VALUE THAT WOULD GIVE THE APPEARANCE OF IMPAIRING THE IMPARTIALITY AND INDEPENDENCE OF JUDGMENT OF THE OFFICIAL OR EMPLOYEE; OR

(III) OF SIGNIFICANT VALUE THAT THE RECIPIENT OFFICIAL OR EMPLOYEE BELIEVES OR HAS REASON TO BELIEVE IS DESIGNED TO IMPAIR THE IMPARTIALITY AND INDEPENDENCE OF JUDGMENT OF THE OFFICIAL OR EMPLOYEE.

(5) NOTWITHSTANDING PARAGRAPH (3) OF THIS SUBSECTION, AN OFFICIAL OR EMPLOYEE MAY ACCEPT THE FOLLOWING:

(I) MEALS AND BEVERAGES CONSUMED IN THE PRESENCE OF THE DONOR OR SPONSORING ENTITY;

(II) CEREMONIAL GIFTS OR AWARDS THAT HAVE INSIGNIFICANT MONETARY VALUE;

(III) UNSOLICITED GIFTS OF NOMINAL VALUE THAT DO NOT EXCEED \$ 20 IN COST OR TRIVIAL ITEMS OF INFORMATIONAL VALUE;

(IV) REASONABLE EXPENSES FOR FOOD, TRAVEL, LODGING, AND SCHEDULED ENTERTAINMENT OF THE OFFICIAL OR THE EMPLOYEE AT A MEETING WHICH IS GIVEN IN RETURN FOR THE PARTICIPATION OF THE OFFICIAL OR EMPLOYEE IN A PANEL OR SPEAKING ENGAGEMENT AT THE MEETING;

(V) GIFTS OF TICKETS OR FREE ADMISSION EXTENDED TO AN ELECTED LOCAL OFFICIAL TO ATTEND A CHARITABLE, CULTURAL, OR POLITICAL EVENTS, IF THE PURPOSE OF THIS GIFT OR ADMISSION IS A COURTESY OR CEREMONY EXTENDED TO THE ELECTED OFFICIAL'S OFFICE;

(VI) A SPECIFIC GIFT OR CLASS OF GIFTS THAT THE COMMISSION EXEMPTS FROM THE OPERATION OF THIS SUBSECTION UPON A FINDING, IN WRITING, THAT ACCEPTANCE OF THE GIFT OR CLASS OF GIFTS WOULD NOT BE DETRIMENTAL TO THE IMPARTIAL CONDUCT OF THE BUSINESS OF THE TOWN AND THAT THE GIFT IS PURELY PERSONAL AND PRIVATE IN NATURE;

(VII) GIFTS FROM A PERSON RELATED TO THE OFFICIAL OR EMPLOYEE BY BLOOD OR MARRIAGE, OR ANY OTHER INDIVIDUAL WHO IS A MEMBER OF THE HOUSEHOLD OF THE OFFICIAL OR EMPLOYEE; OR

(VIII) HONORARIA FOR SPEAKING TO OR PARTICIPATING IN A MEETING, PROVIDED THAT THE OFFERING OF THE HONORARIUM IS IN NOT RELATED IN ANY WAY TO THE OFFICIAL'S OR EMPLOYEE'S OFFICIAL POSITION.

(I) DISCLOSURE OF CONFIDENTIAL INFORMATION. OTHER THAN IN THE DISCHARGE OF OFFICIAL DUTIES, AN OFFICIAL OR EMPLOYEE MAY NOT DISCLOSE OR USE CONFIDENTIAL INFORMATION, THAT THE OFFICIAL OR EMPLOYEE ACQUIRED BY REASON OF THE OFFICIAL'S OR EMPLOYEE'S PUBLIC POSITION AND THAT IS NOT AVAILABLE TO THE PUBLIC, FOR THE ECONOMIC BENEFIT OF THE OFFICIAL OR EMPLOYEE OR THAT OF ANOTHER PERSON.

(J) PARTICIPATION IN PROCUREMENT.

(1) AN INDIVIDUAL TOWN OR A PERSON THAT EMPLOYS AN INDIVIDUAL WHO ASSISTS THE TOWN AGENCY IN THE DRAFTING OF SPECIFICATIONS, AN INVITATION FOR BIDS, OR A REQUEST FOR PROPOSALS FOR A PROCUREMENT, MAY NOT SUBMIT A BID OR PROPOSAL FOR THAT PROCUREMENT, OR ASSIST OR REPRESENT ANOTHER PERSON, DIRECTLY OR INDIRECTLY, WHO IS SUBMITTING A BID OR PROPOSAL FOR THE PROCUREMENT.

(2) THE COMMISSION MAY ESTABLISH EXEMPTIONS FROM THE REQUIREMENTS OF THIS SECTION FOR PROVIDING DESCRIPTIVE LITERATURE, SOLE SOURCE PROCUREMENTS, AND WRITTEN COMMENTS SOLICITED BY THE PROCURING AGENCY.

Section 6. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that Chapter 2, "Government and Administration", Article 3, "Public Ethics", Section 2-307 of the Code of the Town of Kensington be, and is hereby, repealed as follows:

~~[Section 2-307. Solicitation or Acceptance of Gifts~~

~~(a) Officials and employees of the Town of Kensington who are subject to this Article shall not solicit any gifts.~~

~~(b) No official of the Town of Kensington may knowingly accept any gift or gifts of greater than fifty dollars (\$50) in value from any person, firm, or corporation, who the official knows is doing or seeking to do business with the Town, is engaged in activities which are regulated or controlled by the Town, or has a financial interest which may be substantially and materially affected by the performance or nonperformance of said official's duties, except when said gift or gifts would not present a conflict interest as determined by the Town's Ethics Commission.]~~

Section 7. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that Chapter 2, "Government and Administration", Article 3, "Public Ethics", Section 2-307 of the Code of the Town of Kensington be, and is hereby, enacted to read as follows:

Section 2-307. FINANCIAL DISCLOSURE – LOCAL ELECTED OFFICIALS AND CANDIDATES TO BE LOCAL ELECTED OFFICIALS.

(A) THIS SECTION APPLIES TO ALL LOCAL ELECTED OFFICIALS AND CANDIDATES TO BE LOCAL ELECTED OFFICIALS.

(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A LOCAL ELECTED OFFICIAL OR A CANDIDATE TO BE A LOCAL ELECTED OFFICIAL SHALL FILE THE FINANCIAL DISCLOSURE STATEMENT REQUIRED UNDER THIS SECTION:

- (I) ON A FORM PROVIDED BY THE COMMISSION;
- (II) UNDER OATH OR AFFIRMATION; AND
- (III) WITH THE COMMISSION

(2) DEADLINES FOR FILING STATEMENTS.

(I) AN INCUMBENT LOCAL ELECTED OFFICIAL SHALL FILE A FINANCIAL DISCLOSURE STATEMENT ANNUALLY NO LATER THAN APRIL 30TH OF EACH YEAR FOR THE PRECEDING CALENDAR YEAR.

(II) AN INDIVIDUAL WHO IS APPOINTED TO FILL A VACANCY IN AN OFFICE FOR WHICH A FINANCIAL DISCLOSURE STATEMENT IS REQUIRED AND WHO HAS NOT ALREADY FILED A FINANCIAL DISCLOSURE STATEMENT, SHALL FILE A STATEMENT FOR THE PRECEDING CALENDAR YEAR WITHIN 30 DAYS AFTER APPOINTMENT.

(III)(A) AN INDIVIDUAL WHO, OTHER THAN BY REASONS OF DEATH, LEAVES AN OFFICE FOR WHICH A STATEMENT IS REQUIRED SHALL FILE A STATEMENT WITHIN 60 DAYS AFTER LEAVING THE OFFICE.

(B) THE STATEMENT SHALL COVER:

1. THE CALENDAR YEAR IMMEDIATELY PRECEDING THE YEAR IN WHICH THE INDIVIDUAL LEFT OFFICE, UNLESS A STATEMENT COVERING THAT YEAR HAS ALREADY BEEN FILED BY THE INDIVIDUAL; AND

2. THE PORTION OF THE CURRENT CALENDAR YEAR DURING WHICH THE INDIVIDUAL HELD THE OFFICE.

(C) CANDIDATES TO BE LOCAL ELECTED OFFICIALS.

(1) EXCEPT AN OFFICIAL WHO HAS FILED A FINANCIAL DISCLOSURE STATEMENT UNDER ANOTHER PROVISION OF THIS SECTION FOR THE REPORTING PERIOD, A CANDIDATE TO BE AN ELECTED LOCAL OFFICIAL SHALL FILE UNDER A FINANCIAL DISCLOSURE STATEMENT EACH YEAR BEGINNING WITH THE YEAR IN WHICH THE CERTIFICATE OF CANDIDACY IS FILED THROUGH THE YEAR OF THE ELECTION.

(2) A CANDIDATE TO BE AN ELECTED LOCAL OFFICIAL SHALL FILE A STATEMENT REQUIRED UNDER THIS SECTION:

(A) IN THE YEAR THE CERTIFICATE OF CANDIDACY IS FILED, NO LATER THAN THE FILING OF THE CERTIFICATE OF CANDIDACY;

(B) IN THE YEAR OF THE ELECTION, ON OR BEFORE THE EARLIER OF APRIL 30 OR THE LAST DAY FOR THE WITHDRAWAL OF CANDIDACY; AND

(C) IN ALL OTHER YEARS FOR WHICH A STATEMENT IS REQUIRED, ON OR BEFORE APRIL 30.

(3) A CANDIDATE TO BE AN ELECTED OFFICIAL:

(A) MAY FILE THE STATEMENT REQUIRED UNDER §16-7(C)(2)(A) OF THIS CHAPTER WITH THE BOARD OF ELECTION SUPERVISORS WITH THE CERTIFICATE OF CANDIDACY OR WITH THE COMMISSION PRIOR TO FILING THE CERTIFICATE OF CANDIDACY; AND

(B) SHALL FILE THE STATEMENTS REQUIRED UNDER §16-7(C)(2)(B) AND (C) WITH THE COMMISSION.

(4) IF A CANDIDATE FAILS TO FILE A STATEMENT REQUIRED BY THIS SECTION AFTER WRITTEN NOTICE IS PROVIDED BY THE BOARD OF ELECTIONS AT LEAST 20 DAYS BEFORE THE LAST DAY FOR THE WITHDRAWAL OF CANDIDACY, THE CANDIDATE IS DEEMED TO HAVE WITHDRAWN THE CANDIDACY.

(5) THE BOARD OF ELECTIONS MAY NOT ACCEPT ANY CERTIFICATE OF CANDIDACY UNLESS A STATEMENT HAS BEEN FILED IN PROPER FORM.

(6) WITHIN 30 DAYS OF THE RECEIPT OF A STATEMENT REQUIRED UNDER THIS SECTION, THE BOARD OF ELECTIONS SHALL FORWARD THE STATEMENT TO THE COMMISSION OR THE OFFICE DESIGNATED BY THE COMMISSION.

(D) PUBLIC RECORD.

(1) THE COMMISSION OR OFFICE DESIGNATED BY THE COMMISSION SHALL MAINTAIN ALL FINANCIAL DISCLOSURE STATEMENTS FILED UNDER THIS SECTION.

(2) FINANCIAL DISCLOSURE STATEMENTS SHALL BE MADE AVAILABLE DURING NORMAL OFFICE HOURS FOR EXAMINATION AND COPYING BY THE PUBLIC SUBJECT TO REASONABLE FEES AND ADMINISTRATIVE PROCEDURES ESTABLISHED BY THE COMMISSION.

(3) IF AN INDIVIDUAL EXAMINES OR COPIES A FINANCIAL DISCLOSURE STATEMENT, THE COMMISSION OR THE OFFICE DESIGNATED BY THE COMMISSION SHALL RECORD:

(I) THE NAME AND HOME ADDRESS OF THE INDIVIDUAL REVIEWING OR COPYING THE STATEMENT; AND

(II) THE NAME OF THE PERSON WHOSE FINANCIAL DISCLOSURE STATEMENT WAS EXAMINED OR COPIED.

(4) UPON REQUEST BY THE OFFICIAL OR EMPLOYEE WHOSE FINANCIAL DISCLOSURE STATEMENT WAS EXAMINED OR COPIED, THE COMMISSION OR THE OFFICE DESIGNATED BY THE COMMISSION SHALL PROVIDE THE OFFICIAL WITH A COPY OF THE NAME AND HOME ADDRESS OF THE PERSON WHO REVIEWED THE OFFICIAL'S FINANCIAL DISCLOSURE STATEMENT.

(E) RETENTION REQUIREMENTS. THE COMMISSION OR THE OFFICE DESIGNATED BY THE COMMISSION SHALL RETAIN FINANCIAL DISCLOSURE STATEMENTS FOR FOUR YEARS FROM THE DATE OF RECEIPT.

(F) CONTENTS OF STATEMENT.

(1) INTERESTS IN REAL PROPERTY.

(I) A STATEMENT FILED UNDER THIS SECTION SHALL INCLUDE A SCHEDULE OF ALL INTERESTS IN REAL PROPERTY WHEREVER LOCATED.

(II) FOR EACH INTEREST IN REAL PROPERTY, THE SCHEDULE SHALL INCLUDE:

(A) THE NATURE OF THE PROPERTY AND THE LOCATION BY STREET ADDRESS, MAILING ADDRESS, OR LEGAL DESCRIPTION OF THE PROPERTY;

(B) THE NATURE AND EXTENT OF THE INTEREST HELD, INCLUDING ANY CONDITIONS AND ENCUMBRANCES ON THE INTEREST;

(C) THE DATE WHEN, THE MANNER IN WHICH, AND THE IDENTITY OF THE PERSON FROM WHOM THE INTEREST WAS ACQUIRED;

(D) THE NATURE AND AMOUNT OF THE CONSIDERATION GIVEN IN EXCHANGE FOR THE INTEREST OR, IF ACQUIRED OTHER THAN BY PURCHASE, THE FAIR MARKET VALUE OF THE INTEREST AT THE TIME ACQUIRED;

(E) IF ANY INTEREST WAS TRANSFERRED, IN WHOLE OR IN PART, AT ANY TIME DURING THE REPORTING PERIOD, A DESCRIPTION OF THE INTEREST TRANSFERRED, THE NATURE AND AMOUNT OF THE CONSIDERATION RECEIVED FOR THE INTEREST, AND THE IDENTITY OF THE PERSON TO WHOM THE INTEREST WAS TRANSFERRED; AND

(F) THE IDENTITY OF ANY OTHER PERSON WITH AN INTEREST IN THE PROPERTY.

(2) INTERESTS IN CORPORATIONS AND PARTNERSHIPS.

(I) A STATEMENT FILED UNDER THIS SECTION SHALL INCLUDE A SCHEDULE OF ALL INTERESTS IN ANY CORPORATION, PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, OR LIMITED LIABILITY CORPORATION, REGARDLESS OF WHETHER THE CORPORATION OR PARTNERSHIP DOES BUSINESS WITH THE TOWN.

(II) FOR EACH INTEREST REPORTED UNDER THIS PARAGRAPH, THE SCHEDULE SHALL INCLUDE:

(A) THE NAME AND ADDRESS OF THE PRINCIPAL OFFICE OF THE CORPORATION, PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, OR LIMITED LIABILITY CORPORATION;

(B) THE NATURE AND AMOUNT OF THE INTEREST HELD, INCLUDING ANY CONDITIONS AND ENCUMBRANCES ON THE INTEREST;

(C) WITH RESPECT TO ANY INTEREST TRANSFERRED, IN WHOLE OR IN PART, AT ANY TIME DURING THE REPORTING PERIOD, A DESCRIPTION OF THE INTEREST TRANSFERRED, THE NATURE AND AMOUNT OF THE CONSIDERATION RECEIVED FOR THE INTEREST AND, IF KNOWN, THE IDENTITY OF THE PERSON TO WHOM THE INTEREST WAS TRANSFERRED; AND

(D) WITH RESPECT TO ANY INTEREST ACQUIRED DURING THE REPORTING PERIOD:

1. THE DATE WHEN, THE MANNER IN WHICH, AND THE IDENTITY OF THE PERSON FROM WHOM THE INTEREST WAS ACQUIRED; AND

2. THE NATURE AND THE AMOUNT OF THE CONSIDERATION GIVEN IN EXCHANGE FOR THE INTEREST OR, IF ACQUIRED OTHER THAN BY PURCHASE, THE FAIR MARKET VALUE OF THE INTEREST AT THE TIME ACQUIRED.

(III) AN INDIVIDUAL MAY SATISFY THE REQUIREMENT TO REPORT THE AMOUNT OF THE INTEREST HELD UNDER ITEM (F)(2) OF THIS PARAGRAPH BY REPORTING, INSTEAD OF A DOLLAR AMOUNT:

(A) FOR AN EQUITY INTEREST IN A CORPORATION, THE NUMBER OF SHARES HELD AND, UNLESS THE CORPORATION'S STOCK IS PUBLICLY TRADED, THE PERCENTAGE OF EQUITY INTEREST HELD; OR

(B) FOR AN EQUITY INTEREST IN A PARTNERSHIP, THE PERCENTAGE OF EQUITY INTEREST HELD.

(3) INTERESTS IN BUSINESS ENTITIES DOING BUSINESS WITH TOWN.

(I) A STATEMENT FILED UNDER THIS SECTION SHALL INCLUDE A SCHEDULE OF ALL INTERESTS IN ANY BUSINESS ENTITY THAT DOES BUSINESS WITH THE TOWN, OTHER THAN INTERESTS REPORTED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(II) FOR EACH INTEREST REPORTED UNDER THIS PARAGRAPH, THE SCHEDULE SHALL INCLUDE:

(A) THE NAME AND ADDRESS OF THE PRINCIPAL OFFICE OF THE BUSINESS ENTITY;

(B) THE NATURE AND AMOUNT OF THE INTEREST HELD, INCLUDING ANY CONDITIONS TO AND ENCUMBRANCES IN THE INTEREST;

(C) WITH RESPECT TO ANY INTEREST TRANSFERRED, IN WHOLE OR IN PART, AT ANY TIME DURING THE REPORTING PERIOD, A DESCRIPTION OF THE INTEREST TRANSFERRED, THE NATURE AND AMOUNT OF THE CONSIDERATION RECEIVED IN EXCHANGE FOR THE INTEREST AND, IF KNOWN, THE IDENTITY OF THE PERSON TO WHOM THE INTEREST WAS TRANSFERRED; AND

(D) WITH RESPECT TO ANY INTEREST ACQUIRED DURING THE REPORTING PERIOD:

1. THE DATE WHEN, THE MANNER IN WHICH, AND THE IDENTITY OF THE PERSON FROM WHOM THE INTEREST WAS ACQUIRED; AND

2. THE NATURE AND THE AMOUNT OF THE CONSIDERATION GIVEN IN EXCHANGE FOR THE INTEREST OR, IF ACQUIRED OTHER THAN BY PURCHASE, THE FAIR MARKET VALUE OF THE INTEREST AT THE TIME ACQUIRED.

(4) GIFTS.

(I) A STATEMENT FILED UNDER THIS SECTION SHALL INCLUDE A SCHEDULE OF EACH GIFT IN EXCESS OF \$20 IN VALUE OR A SERIES OF GIFTS TOTALING \$100 OR MORE RECEIVED DURING THE REPORTING PERIOD FROM OR ON BEHALF OF, DIRECTLY OR INDIRECTLY, ANY ONE PERSON WHO DOES BUSINESS WITH OR IS REGULATED BY THE TOWN.

(II) FOR EACH GIFT REPORTED, THE SCHEDULE SHALL INCLUDE:

(A) A DESCRIPTION OF THE NATURE AND VALUE OF THE GIFT; AND

(B) THE IDENTITY OF THE PERSON FROM WHOM, OR ON BEHALF OF WHOM, DIRECTLY OR INDIRECTLY, THE GIFT WAS RECEIVED.

(5) EMPLOYMENT WITH OR INTERESTS IN ENTITIES DOING BUSINESS WITH THE TOWN.

(I) A STATEMENT FILED UNDER THIS SECTION SHALL INCLUDE A SCHEDULE OF ALL OFFICES, DIRECTORSHIPS, AND SALARIED EMPLOYMENT BY THE INDIVIDUAL OR MEMBER OF THE IMMEDIATE FAMILY OF THE INDIVIDUAL HELD AT ANY TIME DURING THE REPORTING PERIOD WITH ENTITIES DOING BUSINESS WITH THE TOWN.

(II) FOR EACH POSITION REPORTED UNDER THIS PARAGRAPH, THE SCHEDULE SHALL INCLUDE:

(A) THE NAME AND ADDRESS OF THE PRINCIPAL OFFICE OF THE BUSINESS ENTITY;

(B) THE TITLE AND NATURE OF THE OFFICE, DIRECTORSHIP, OR SALARIED EMPLOYMENT HELD AND THE DATE IT COMMENCED; AND

(C) THE NAME OF EACH TOWN AGENCY WITH WHICH THE ENTITY IS INVOLVED.

(6) INDEBTEDNESS TO ENTITIES DOING BUSINESS WITH THE TOWN.

(I) A STATEMENT FILED UNDER THIS SECTION SHALL INCLUDE A SCHEDULE OF ALL LIABILITIES, EXCLUDING RETAIL CREDIT ACCOUNTS, TO PERSONS DOING BUSINESS WITH THE TOWN OWED AT ANY TIME DURING THE REPORTING PERIOD:

(A) BY THE INDIVIDUAL; OR

(B) BY A MEMBER OF THE IMMEDIATE FAMILY OF THE INDIVIDUAL IF THE INDIVIDUAL WAS INVOLVED IN THE TRANSACTION GIVING RISE TO THE LIABILITY.

(II) FOR EACH LIABILITY REPORTED UNDER THIS PARAGRAPH, THE SCHEDULE SHALL INCLUDE:

(A) THE IDENTITY OF THE PERSON TO WHOM THE LIABILITY WAS OWED AND THE DATE THE LIABILITY WAS INCURRED;

(B) THE AMOUNT OF THE LIABILITY OWED AS OF THE END OF THE REPORTING PERIOD;

(C) THE TERMS OF PAYMENT OF THE LIABILITY AND THE EXTENT TO WHICH THE PRINCIPAL AMOUNT OF THE LIABILITY WAS INCREASED OR REDUCED DURING THE YEAR; AND

(D) THE SECURITY GIVEN, IF ANY, FOR THE LIABILITY.

(7) A STATEMENT FILED UNDER THIS SECTION SHALL INCLUDE A SCHEDULE OF THE IMMEDIATE FAMILY MEMBERS OF THE INDIVIDUAL EMPLOYED BY THE TOWN IN ANY CAPACITY AT ANY TIME DURING THE REPORTING PERIOD.

(8) SOURCES OF EARNED INCOME.

(I) A STATEMENT FILED UNDER THIS SECTION SHALL INCLUDE A SCHEDULE OF THE NAME AND ADDRESS OF EACH PLACE OF EMPLOYMENT AND OF EACH BUSINESS ENTITY OF WHICH THE INDIVIDUAL OR A MEMBER OF THE INDIVIDUAL'S IMMEDIATE FAMILY WAS A SOLE OR PARTIAL OWNER AND FROM WHICH THE INDIVIDUAL OR MEMBER OF THE INDIVIDUAL'S IMMEDIATE FAMILY RECEIVED EARNED INCOME, AT ANY TIME DURING THE REPORTING PERIOD.

(II) A MINOR CHILD'S EMPLOYMENT OR BUSINESS OWNERSHIP NEED NOT BE DISCLOSED IF THE AGENCY THAT EMPLOYS THE INDIVIDUAL DOES NOT

REGULATE, EXERCISE AUTHORITY OVER, OR CONTRACT WITH THE PLACE OF EMPLOYMENT OR BUSINESS ENTITY OF THE MINOR CHILD.

(9) A STATEMENT FILED UNDER THIS SECTION MAY ALSO INCLUDE A SCHEDULE OF ADDITIONAL INTERESTS OR INFORMATION THAT THE INDIVIDUAL MAKING THE STATEMENT WISHES TO DISCLOSE.

(G) FOR THE PURPOSES OF §16- 7(F)(1), (2) AND (3) OF THIS CHAPTER, THE FOLLOWING INTERESTS ARE CONSIDERED TO BE THE INTERESTS OF THE INDIVIDUAL MAKING THE STATEMENT:

(1) AN INTEREST HELD BY A MEMBER OF THE INDIVIDUAL'S IMMEDIATE FAMILY, IF THE INTEREST WAS, AT ANY TIME DURING THE REPORTING PERIOD, DIRECTLY OR INDIRECTLY CONTROLLED BY THE INDIVIDUAL.

(2) AN INTEREST HELD BY A BUSINESS ENTITY IN WHICH THE INDIVIDUAL HELD A 30% OR GREATER INTEREST AT ANY TIME DURING THE REPORTING PERIOD.

(3) AN INTEREST HELD BY A TRUST OR AN ESTATE IN WHICH, AT ANY TIME DURING THE REPORTING PERIOD:

(I) THE INDIVIDUAL HELD A REVERSIONARY INTEREST OR WAS A BENEFICIARY, OR

(II) IF A REVOCABLE TRUST, THE INDIVIDUAL WAS A SETTLOR.

(H)(1) THE COMMISSION SHALL REVIEW THE FINANCIAL DISCLOSURE STATEMENTS SUBMITTED UNDER THIS SECTION FOR COMPLIANCE WITH THE PROVISIONS OF THIS SECTION AND SHALL NOTIFY AN INDIVIDUAL SUBMITTING THE STATEMENT OF ANY OMISSIONS OR DEFICIENCIES.

(2) THE TOWN ETHICS COMMISSION MAY TAKE APPROPRIATE ENFORCEMENT ACTION TO ENSURE COMPLIANCE WITH THIS SECTION.

Section 8. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and

Council of the Town of Kensington that Chapter 2, "Government and Administration", Article 3, "Public Ethics", Section 2-308 of the Code of the Town of Kensington be, and is hereby, repealed as follows:

~~{Section 2-308. Financial Disclosure.~~

~~{(a) All officials and employees shall disclose to the Ethics Commission, in writing, the substance of any transaction, anticipated transaction or other action which presents a potential conflict of interest as described in Sections 2-305 and 2-306 above. The disclosure shall include a description of the official's or employee's direct financial interest in the contemplated action and a detailed description of any economic interest or impact resulting from~~

~~the contemplated action. Disclosure should be made, whenever possible, at least thirty (30) days~~

~~prior to the contemplated action. The thirty (30) day disclosure requirement may be waived by resolution if the disinterested Council, Board or Commission members first determine that prompt action is warranted under the circumstances.~~

~~(b) Town officials enumerated in Section 2-301, shall file annually no later than January 31 of each calendar year, beginning January 31, 1994, a statement with the Town's Clerk-Treasurer disclosing all gifts in excess of twenty-five dollars (\$25) in value or a series of~~

~~gifts totaling one hundred dollars (\$100) or more in value, received in the preceding calendar year from any one person or entity or on behalf of, directly or indirectly, any person or business entity doing business with, seeking to do business with, or subject to the direct regulatory authority of the Town, except gifts received from the spouse, children, parents, or from other relatives living in the same household as the person making the statement. The statement shall identify the donor of the gift and its approximate retail value at the time of receipt. If no such gifts were received during the preceding calendar year, a statement to that effect shall be filed.~~
~~(c) Non-incumbent candidates for elective offices and proposed appointees for any boards or commissions enumerated in Section 2-301 of this Article shall file statements consistent with the requirements of this Section at the time they file their certificates of candidacy or upon their nominations for appointment from the most recent January to the date of filing.~~
~~(d) All statements filed under this Section shall be retained by the Clerk-Treasurer for a period of at least three (3) years and shall be open to inspection and copying at the Town offices during regular business hours.]~~

Section 9. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that Chapter 2, “Government and Administration”, Article 3, “Public Ethics”, Section 2-308 of the Code of the Town of Kensington be, and is hereby, enacted to read as follows:

SECTION 2-308. FINANCIAL DISCLOSURE – EMPLOYEES AND APPOINTED OFFICIALS.

(A) THIS SECTION ONLY APPLIES TO THE FOLLOWING APPOINTED OFFICIALS AND EMPLOYEES:

- (1) TOWN MANAGER OR DESIGNEE**
- (2) ALL EMPLOYEES**
- (3) MEMBERS OF ALL BOARDS AND COMMISSIONS**
- (4) TOWN ATTORNEY**

(B) A STATEMENT FILED UNDER THIS SECTION SHALL BE FILED WITH THE COMMISSION UNDER OATH OR AFFIRMATION.

(C) ON OR BEFORE APRIL 30 OF EACH YEAR DURING WHICH AN OFFICIAL OR EMPLOYEE HOLDS OFFICE, AN OFFICIAL OR EMPLOYEE SHALL FILE A STATEMENT DISCLOSING GIFTS RECEIVED DURING THE PRECEDING CALENDAR YEAR FROM ANY PERSON THAT CONTRACTS WITH OR IS REGULATED BY THE TOWN, INCLUDING THE NAME OF THE DONOR OF THE GIFT AND THE APPROXIMATE RETAIL VALUE AT THE TIME OF RECEIPT.

D) AN OFFICIAL OR EMPLOYEE SHALL DISCLOSE EMPLOYMENT AND INTERESTS THAT RAISE CONFLICTS OF INTEREST OR POTENTIAL CONFLICTS OF INTEREST IN CONNECTION WITH A SPECIFIC PROPOSED ACTION BY THE EMPLOYEE OR OFFICIAL SUFFICIENTLY IN ADVANCE OF THE ACTION TO PROVIDE ADEQUATE DISCLOSURE TO THE PUBLIC.

(E) THE COMMISSION SHALL MAINTAIN ALL DISCLOSURE STATEMENTS FILED UNDER THIS SECTION AS PUBLIC RECORDS AVAILABLE FOR PUBLIC INSPECTION AND COPYING AS PROVIDED IN §16-7(D) AND (E) OF THIS CHAPTER .

Section 10. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that Chapter 2, “Government and Administration”, Article 3, “Public Ethics”, Section 2-309 of the Code of the Town of Kensington be, and is hereby, repealed and re-enacted with amendments to read as follows:

Section 2-309. Lobbying Disclosure

(a) All lobbyists shall file a registration statement with the ~~[Clerk-Treasurer no later than January 31]~~ TOWN MANAGER OR DESIGNEE ON OR BEFORE THE LATTER OF JANUARY 15 of the calendar year~~[in which the lobbyists intend to appear and/or communicate with the Town regarding any legislative or executive action or within twenty (20) days after first making such appearances or communications]~~ OR WITHIN 5 DAYS AFTER FIRST PERFORMING AN ACT THAT REQUIRES REGISTRATION IN THE CALENDAR YEAR.

(b) The registration statement referred to in Subsection (a) above shall include complete identification of the registrant and any other person on whose behalf the registrant acts. It shall also identify the subject matter on which the registrant proposes to make such appearances.

(c) In addition to the registration statement set forth above, all lobbyists shall file an annual report within thirty (30) days after the end of any calendar year during which they were registered, disclosing the value, date and nature of any food, entertainment or other gift provided to a Town official(s). Where a gift or series of gifts to a single official exceed fifty dollars (\$50) in value, the official(s) shall also be identified.

(d) All registration statements and annual reports filed hereunder shall be retained by The ~~[Clerk-Treasurer]~~ TOWN MANAGER OR DESIGNEE for a period of at least three (3) years and shall be open for inspection and copying at the Town offices during regular business hours.

Section 11. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that Chapter 2, “Government and Administration”, Article 3, “Public Ethics”, Section 2-310 of the Code of the Town of Kensington be, and is hereby, repealed as follows:

~~[Section 2-310. Violations and penalties~~

~~(a) the ethics commission may issue a cease and desist order against any person~~

~~Found to be in violation of this article and may seek enforcement of such order in the circuit court of montgomery county, maryland pursuant to article 40a of the annotated code of maryland.~~

~~(b) any official found to have violated the provisions of this article may be subject To disciplinary or other appropriate personnel action, including termination or suspension of salary or other compensation.~~

~~(c) if the ethics commission finds a violation of this article, the commission will Notify the person in writing to cease and desist. If that person does not comply within the time frame noted, the commission will ask them for their immediate resignation.]~~

Section 12. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that Chapter 2, “Government and Administration”, Article 3, “Public Ethics”, Section 2-310 of the Code of the Town of Kensington be, and is hereby, enacted to read as follows:

SECTION 2-310. EXEMPTIONS AND MODIFICATIONS.

THE COMMISSION MAY GRANT EXEMPTIONS AND MODIFICATIONS TO THE PROVISIONS OF SECTIONS 2-305 AND 2-308 OF THIS CHAPTER TO EMPLOYEES AND TO APPOINTED MEMBERS OF TOWN BOARDS AND COMMISSIONS, WHEN THE COMMISSION FINDS THAT AN EXEMPTION OR MODIFICATION WOULD NOT BE CONTRARY TO THE PURPOSES OF THIS CHAPTER, AND THE APPLICATION OF THIS CHAPTER WOULD:

- (A) CONSTITUTE AN UNREASONABLE INVASION OF PRIVACY; AND
- (B) SIGNIFICANTLY REDUCE THE AVAILABILITY OF QUALIFIED PERSONS FOR PUBLIC SERVICE.

Section 13. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that Chapter 2, “Government and Administration”, Article 3, “Public Ethics”, Section 2-311 of the Code of the Town of Kensington be, and is hereby, enacted to read as follows:

SECTION 2-311. ENFORCEMENT.

(A) THE COMMISSION MAY ISSUE A CEASE AND DESIST ORDER AGAINST ANY PERSON FOUND TO BE IN VIOLATION OF THIS CHAPTER.

(B)(1) UPON A FINDING OF A VIOLATION OF ANY PROVISION OF THIS CHAPTER, THE COMMISSION MAY:

- (I) ISSUE AN ORDER OF COMPLIANCE DIRECTING THE RESPONDENT TO CEASE AND DESIST FROM THE VIOLATION;
- (II) ISSUE A REPRIMAND; OR

(III) RECOMMEND TO THE APPROPRIATE AUTHORITY OTHER APPROPRIATE DISCIPLINE OF THE RESPONDENT, INCLUDING CENSURE OR REMOVAL IF THAT DISCIPLINE IS AUTHORIZED BY LAW.

(2) IF THE COMMISSION FINDS THAT A RESPONDENT HAS VIOLATED SECTION 2-309 OF THIS CHAPTER, THE COMMISSION MAY:

(I) REQUIRE A RESPONDENT WHO IS A REGISTERED LOBBYIST TO FILE ANY ADDITIONAL REPORTS OR INFORMATION THAT REASONABLY RELATED TO THE INFORMATION THAT IS REQUIRED UNDER SECTION 2-309 OF THIS CHAPTER;

(II) IMPOSE A FINE NOT EXCEEDING \$1,000 FOR EACH VIOLATION; AND

(III) SUSPEND THE REGISTRATION OF AN INDIVIDUAL REGISTERED LOBBYIST IF THE COMMISSION FINDS THAT THE LOBBYIST HAS KNOWINGLY AND WILLFULLY VIOLATED SECTION 2-309 OF THIS CHAPTER OR HAS BEEN CONVICTED OF A CRIMINAL OFFENSE ARISING FROM LOBBYING ACTIVITIES.

(C) UPON REQUEST BY THE COMMISSION, THE TOWN ATTORNEY MAY FILE A PETITION FOR INJUNCTIVE OR OTHER RELIEF IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, OR IN ANY OTHER COURT HAVING PROPER VENUE, FOR THE PURPOSE OF REQUIRING COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER AND FOR ASSESSMENT OF A FINE NOT TO EXCEED \$1,000.00.

(D) IN ADDITION TO ANY OTHER ENFORCEMENT PROVISIONS IN THIS CHAPTER, A PERSON WHO THE COMMISSION OR A COURT FINDS HAS VIOLATED THIS CHAPTER:

(1) IS SUBJECT TO TERMINATION OR OTHER DISCIPLINARY ACTION; AND

(2) MAY BE SUSPENDED FROM RECEIVING PAYMENT OF SALARY OR OTHER COMPENSATION PENDING FULL COMPLIANCE WITH THE TERMS OF AN ORDER OF THE COMMISSION OR A COURT.

(E) A TOWN OFFICIAL OR EMPLOYEE FOUND TO HAVE VIOLATED THIS CHAPTER IS SUBJECT TO DISCIPLINARY OR OTHER APPROPRIATE PERSONNEL ACTION, INCLUDING REMOVAL FROM OFFICE, DISCIPLINARY ACTION, SUSPENSION OF SALARY, OR OTHER SANCTION.

(F) A FINDING OF A VIOLATION OF THIS CHAPTER BY THE COMMISSION IS PUBLIC INFORMATION.

Section 14. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that upon formal introduction of this proposed Ordinance, the Town Manager or designee shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the Town Clerk. The proposed ordinance or a fair summary thereof together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council, shall be:

a. Posted at the town hall by the next business day;

b. Posted on the official town website;

- c. Sent to those persons listed on the official town email list /mail subscription service;
and
- d. Published once prior to the public hearing in the town newsletter or sent by substitute regular mail to newsletter circulation addresses.

The public hearing shall be held at least fifteen (15) days after introduction and may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. This Ordinance shall become effective on _____ provided that the ordinance or a fair summary thereof is:

- a. Posted at the town hall by the next business day for at least two (2) weeks;
- b. Posted on the official town website;
- c. Sent to those persons listed on the official town email list /mail subscription service;
and
- d. Published once in the town newsletter.

INTRODUCED by the Mayor and Council of the Town of Kensington, Maryland at a regular meeting on the 13th day of June 2011.

ADOPTED by the Mayor and Council of the Town of Kensington, Maryland at a regular meeting on the ____ day of _____ 2011.

EFFECTIVE the ____ day of _____, 2011.

ATTEST:

**THE TOWN OF KENSINGTON,
MARYLAND**

By: _____
Susan Engels, Clerk-Treasurer

By: _____
Peter Fosselman, Mayor